

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:19-cv-00230-FDW**

RODNEY KEITH WHITAKER,)
)
 Plaintiff,)
)
 vs.)
)
 STATE of NORTH CAROLINA, et al.,)
)
 Defendants.)
 _____)

ORDER

THIS MATTER is before the Court on initial review of Plaintiff’s Complaint, filed under 42 U.S.C. § 1983 [Doc. 1]. See 28 U.S.C. §§ 1915(e)(2); 1915A. Plaintiff is proceeding in forma pauperis. [Doc. 2, 6].

I. BACKGROUND

Pro se Plaintiff Rodney Keith Whitaker (“Plaintiff”) is a North Carolina state prisoner currently incarcerated at Mountain View Correctional Institution in Spruce Pine, North Carolina. He filed this action on July 29, 2019, pursuant to 42 U.S.C. § 1983. [Doc. 1]. Plaintiff has named various individuals and the State of North Carolina as Defendants. Plaintiff alleges that he believes he should be provided greeting cards and “big brown legal mail envelopes” free of charge because he is indigent. He admits these items are available for purchase at the prison canteen. He also admits that white envelopes are provided to him free of charge. [Id. at 1-4].

As relief, Plaintiff seeks injunctive relief and monetary damages. [Id. at 6].

II. STANDARD OF REVIEW

Because the Plaintiff is proceeding in forma pauperis, the Court must review the Complaint to determine whether it is subject to dismissal on the grounds that it is “frivolous or malicious [or]

fails to state a claim on which relief may be granted.” 28 U.S.C. § 1915(e)(2). Furthermore, § 1915A requires an initial review of a “complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity,” and the court must identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint is frivolous, malicious, or fails to state a claim upon which relief may be granted; or seeks monetary relief from a defendant who is immune from such relief.

In its frivolity review, this Court must determine whether the Complaint raises an indisputably meritless legal theory or is founded upon clearly baseless factual contentions, such as fantastic or delusional scenarios. Neitzke v. Williams, 490 U.S. 319, 327-28 (1989). Furthermore, a pro se complaint must be construed liberally. Haines v. Kerner, 404 U.S. 519, 520 (1972). However, the liberal construction requirement will not permit a district court to ignore a clear failure to allege facts in his Complaint which set forth a claim that is cognizable under federal law. Weller v. Dep’t of Soc. Servs., 901 F.2d 387 (4th Cir. 1990).

III. DISCUSSION

Plaintiff’s Complaint is wholly frivolous. Plaintiff claim is based on the lack of availability of free greeting cards and “big brown legal mail envelopes” at his place of incarceration. Plaintiff admits that he has provided white envelopes (paper, pencils, and carbon paper) free of charge. [Doc. 1 at 3]. Plaintiff believes greeting cards and big brown envelopes should be given to him because he is indigent. There is no constitutionally protected right to the provision of these items free of charge in prison.

In sum, Plaintiff’s Complaint is dismissed as frivolous.

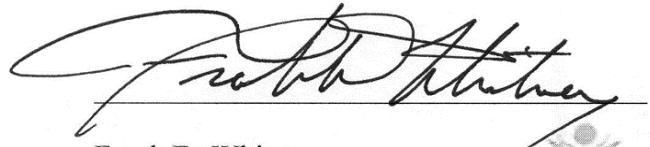
IV. CONCLUSION

Plaintiff’s Complaint is a frivolous filing and will, therefore, be dismissed.

IT IS, THEREFORE, ORDERED that:

1. Plaintiff's Complaint [Doc. 1] is **DISMISSED** as frivolous. See 28 U.S.C. §§ 1915(e)(2); 1915A.
2. The Clerk is directed to terminate this case.

Signed: December 20, 2019

A handwritten signature in black ink, appearing to read "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

